

DEPARTMENT OF ENERGY

LICENSE FOR NON-FEDERAL USE OF PROPERTY

PROJECT: PADUCAH GASEOUS DIFFUSION PLANT
PURPOSE: WILDLIFE DEVELOPMENT

THIS LICENSE, between the Department of Energy, known as the "Grantor" and Kentucky Dept. of Fish & Wildlife Resources, known as the "Grantee", provides for the use by the Grantee of Government-owned facilities. The Grantor grants to the Grantee permission to use the premises or facilities consisting of Government-owned land at the Paducah Gaseous Diffusion Plant^{TK} near Paducah, KY, together with ingress and egress, for the purpose of developing wildlife thereon and for bird dog field trials.

This area contains approximately 2079.50 acre(s) and is delineated in red on the attached drawing designated as Exhibit(s) "A" & "B" which ~~is~~ are made a part of this license.

THIS LICENSE is granted subject to the following terms and conditions:

→ 1. TERM/TERMINATION RIGHTS - This License shall be effective beginning September 4, 1953 and ending Indefinite but is revocable at any time without notice at the option and discretion of the Grantor and its duly authorized representative. The Grantee may terminate this License by giving ten (10) days written notice by certified mail to the Grantor's representative at the address set out in Condition 3.

2. CONSIDERATION - The Grantee shall pay to the Grantor the amount of DELETE (\$) per annum, payable in advance. Checks or money orders shall be made payable to the Department of Energy and mailed to the address of the Grantor's representative set out in Condition 3.

3. AUTHORIZED REPRESENTATIVES - The Grantor's representative shall be Richard P. Nicholson, Realty Officer, Oak Ridge Field Office, P.O. Box 2001 in Oak Ridge, Tennessee 37831. The Grantee's representative shall be Don McCormick, Commissioner, Kentucky Dept. of Fish & Wildlife, No. 1 Game Farm Road, in Frankfort, KY 40601.

Any changes in the designated representatives or in their respective addresses shall be given in writing to the other.

4. NOTICE - No notice, order, direction, determination, requirement, consent, or approval under this License shall be of any effect, within the restrictions of this license, unless provided in writing to the authorized representative at the address set out in Condition 3.

5. CONDITIONS OF PRIVILEGES GRANTED - The exercise of the privileges granted shall be without cost or expense to the Grantor; shall be subject to the right of the Grantor to construct, use, and maintain facilities on the premises without unreasonably interfering with the Grantee's privileges; shall be subject to other outgrants of the Grantor on the premises which do not unreasonably interfere with the Grantee's privileges; and shall be without liability of the Grantor for failure to supervise or inspect activities or facilities of the Grantee.
6. INSPECTION OF PROPERTY - The Grantor and Grantee have inspected and know the condition of the licensed property, and it is understood that the property is granted without any representation or warranty by the Grantor whatsoever and without obligation on the part of the Grantor to make any alterations, repairs, or additions.
7. PROTECTION OF PROPERTY - Subject to the limitations of Condition No. 20 with respect to the restoration of the property, all portions of the licensed property shall at all times be protected and maintained in good order and condition by and at the expense of the Grantee.
8. TRANSFERS/ ASSIGNMENTS - The Grantee shall neither transfer nor assign this License or any property on the premises, nor sublet the premises or any part of the property, nor grant any interest, privilege, or license whatsoever in connection with this License.
9. GOVERNMENT SUPERVISION AND ADMINISTRATION - The Grantor's representative shall have complete charge of the administration of this License and shall exercise full supervision and general direction insofar as the interests of the Government are affected. Grantee shall comply with such rules and regulations regarding Government security, ingress, egress, safety, sanitation, etc. as may be prescribed from time to time by the Grantor's representative.
10. ALTERATIONS - No additions to, or alterations of the premises shall be made without the prior written consent of the Grantor. Upon revocation or surrender of this License, to the extent directed by the Grantor, the Grantee shall remove all alterations, additions, betterments, and improvements made, or installed and in accordance with Condition No. 20 restore the premises or facilities to the same or as good condition as existed on the date of entry under this License, excepting normal wear and tear.
11. OFFICIALS NOT TO BENEFIT - No member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this License or to any benefit arising from it. However, nothing contained within this License shall be construed to extend to any incorporated company if the License be for the corporation's general benefit.

12. NONDISCRIMINATION - Usage of the premises or facilities will be operated in a nondiscriminatory manner to the end that no person shall, on the ground of race, color, religion, sex, age, handicap, or national origin, be excluded from using the premises or facilities licensed.

13. COVENANT AGAINST CONTINGENT FEES - The Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Grantee for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this License without liability or, in its discretion, to require the Grantee to pay the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property for rent, in accordance with general business practices and who have not obtained such licenses for the sole purpose of effecting this License, may be considered as bona fide employees or agencies within the exception contained in this Condition.)

14. ENVIRONMENT - The Grantee shall not unlawfully pollute the air, ground or water or create a public nuisance. The Grantee shall use all reasonable means available to protect the environment and natural resources from damage arising from this License or activities incident to it and, where damage nonetheless occurs, the Grantee shall be liable to restore the damaged resources. The Grantee shall at no cost to the Government promptly comply with present and future Federal, State, and local laws, ordinances, regulations, or instructions controlling the quality of the environment. This does not affect the Grantee's right to contest their validity or enjoin their applicability. The Grantee shall not be responsible for pollution caused by others. If the Grantee discovers contamination on the premises, the Grantee shall immediately cease activities and notify the Grantor's representative.

15. CULTURAL ITEMS - The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifacts, relics, vestiges, remains or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the Grantor's representative and protect the site and the material from further disturbance until the Grantor gives clearance to proceed.

16. LAWS, ORDINANCES, REGULATIONS - Grantee shall comply with all applicable laws, ordinances, and regulations of the State, county, and municipality wherein the licensed premises are located with regard to construction, sanitation, licenses or permits to do business, and all other matters.

17. GRANTOR INDEMNITY - The Grantor shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the premises or for damages to the property of the Grantee, or for injuries to the persons of the Grantee (if an individual), or for damages to the property or injuries to the persons of the Grantee's officers, agents, servants, employees, or others who may be on the premises at their invitation or the invitation of any one of them, arising from Governmental activities, and the Grantee shall hold the Grantor harmless from any and all such claims.

To the extent provided by state law

18. GRANTEE LIABILITY -/the Grantee shall be liable for any personal injury, loss of, or damage to the premises or facilities incurred as a result of its use and shall make such restoration, repair, or monetary compensation as may be directed by the Grantor as set out in Condition No. 20. The Grantee shall not be liable for loss of or damage to the premises arising from causes beyond the control of the Grantee and occasioned by a risk not in fact covered by insurance and not customarily covered by insurance in the locality in which the premises are situated. Nothing contained within this License, however, shall relieve the Grantee of liability with respect to any loss or damage to the premises, not fully compensated by insurance which results from willful misconduct, lack of good faith, or failure to exercise due diligence on the part of the Grantee.

19. INSURANCE COVERAGE - All insurance required of the Grantee on the premises shall be for the protection of the Grantor and the Grantee against their respective risks and liabilities in connection with the premises. It shall be in such form, for such periods of time, and with such insurers as the Grantor may require or approve. A certificate of insurance or a certified copy of each policy of insurance shall be furnished the Grantor's representative prior to use of the premises or facilities. The Grantee agrees that not less than thirty ~~30~~ days prior to the expiration of any insurance required by this License, it will furnish to the Grantor's representative a certificate of insurance or a certified copy of each renewal policy to cover the same risks. The Grantee shall provide evidence of adequate insurance coverage for Bodily Injury and Property Damage. Each policy of insurance against loss or damage to Grantor's property shall name the Grantee and the United States of America (Department of Energy) as the insured and shall contain a loss payable clause reading substantially as follows:

"Loss, if any, under this policy shall be adjusted with (name of Grantee) and the proceeds, at the direction of the Government, shall be payable to (name of Grantee), and proceeds not paid to (name of Grantee) shall be payable to the Treasurer of the United States of America."

Additionally, each policy of insurance shall contain an endorsement reading substantially as follows:

DELETE

"The insurer waives any right of subrogation against the United States of America which might arise by reason of any payment made under this policy."

20. RESTORATION - In the event that any item or part of the premises or facilities shall require repair, rebuilding or replacement resulting from loss or damage, the Grantee shall promptly give notice to the Grantor and, to the extent of its liability shall, upon demand, either compensate the Government for such loss or damage or shall rebuild, replace or repair the item or items of the premises or facilities lost or damaged as the Grantor may elect. In the event the Grantee shall have effected any repair, rebuilding or replacement as required herein, the Grantor shall direct payment to the Grantee of so much of the proceeds of any insurance carried by the Grantee and made available to the Government on account of loss of or damage to any item or part of the premises or facilities as may be necessary to enable the Grantee to effect such repair, rebuilding or replacement. In the event the Grantee shall not have been required to effect such repair, rebuilding or replacement and the insurance proceeds allocable to the loss or damage which has created the need for such repair, rebuilding or replacement have been paid to the Grantee, the Grantee shall promptly refund to the Grantor the amount of such proceeds.

21. RECOVERABLE COSTS - In the event this License is terminated by the Grantor for the Grantee's failure to perform any of the terms or conditions within this License, the Grantor shall be entitled to recover from the Grantee the costs incurred in resuming possession of the premises and the costs incurred in performing any obligation on the part of the Grantee to be performed under the terms of this License.

22. INTEREST PROVISIONS - Unless paid within thirty (30) days, all amounts that become payable by the Grantee to the Grantor under Condition Nos. 13 and 20 of this License shall bear interest from the date due until paid. The interest rate per annum shall be the interest rate in effect which has been established by the Secretary of the Treasury pursuant to Public Law 92-42; STAT 97 for the Renegotiation Board, as of the date the amount becomes due as provided. Amounts shall be due upon the earliest one of (1) the date fixed pursuant to this License; (2) the date of the first written demand for payment consistent with this License including demand consequent upon default termination; (3) the date of transmittal by the Grantor to the Grantee of a proposed supplemental agreement to confirm completed negotiations fixing the amount; or (4) if this License provides for revision of prices, the date of written notice to the Grantee stating the amount of refund payable in connection with a negotiated pricing agreement not confirmed by license amendment.

23. GRANTEE PERFORMANCE - The failure of the Grantor to insist in any one or more instances upon strict performance of any of the terms, covenants or conditions of this License shall not be construed as a waiver or relinquishment of the Grantor's right to the future performance of any such terms, covenants, or conditions and the Grantee's obligations with respect to such future performance shall continue in full force and effect.

That prior to execution of this License certain Conditions were deleted, revised, and added (with the additions being designated as Page(s) N/A and being made a part of this License) in the following manner:

Condition Nos. 2 and 19 have been deleted in their entirety; Condition No. 18 has been revised; Condition No. 24 has been added.

24. SUPERSEDED LICENSE AGREEMENT(S) - Letter license dated September 4, 1953 and subsequent letter amendments dated May 11, 1955; October 10, 1957; December 11, 1957; October 6, 1959; and April 14, 1960 are incorporated within License No. REORDOER-3-93-0700. The license herein also implements formal withdrawal of 52.50 acres from the area covered within letter amendment dated April 14, 1960. Said area is depicted on Exhibits "A" & "B".

THE GRANTOR AND GRANTEE have caused this License to be signed on their behalf by their duly authorized representatives.

GRANTEE:

By: [Signature]

Title: Commissioner

Date: June 7, 1993

GRANTOR: Department of Energy

By: [Signature]

for Richard P. Nicholson

Title: Realty Officer

Date: 6-11-93